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TRADE AND DEVELOPMENT BOARD
Commission on Investment, Technology
and Related Financial Issues
Intergovernmental Group of Experts
on Competition Law and Policy
Geneva, 7-9 June 1999
Item 2 of the provisional agenda

ADOPTION OF THE AGENDA AND ORGANIZATION OF WORK

Provisional agenda and annotations

I. PROVISIONAL AGENDA

1. Election of officers

2. Adoption of the agenda and organization of work

3. (i) Consultations on competition law and policy, including the Model Law and studies related to the provisions of the Set of Principles and Rules

   (ii) Work programme, including technical assistance, advisory and training programmes on competition law and policy and preparations for the Fourth United Nations Conference to Review All Aspects of the Set of Principles and Rules

4. Provisional agenda for the Fourth Review Conference

5. Adoption of the report of the Intergovernmental Group of Experts

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Item 1: Election of officers

1. The Intergovernmental Group of Experts will elect a Chairman and Vice-Chairman-cum-Rapporteur.

Item 2: Adoption of the agenda and organization of work

2. At its first session, in July 1998, the Intergovernmental Group of Experts on Competition Law and Policy approved the provisional agenda for its second session, which is reproduced in section I above. It should be recalled in this connection that the General Assembly of the United Nations, in its resolution 52/182 of December 1997, decided, in line with the recommendations of the Third United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices (21 November 1995), to convene the Fourth United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices (the "Fourth Review Conference"). The Conference is now scheduled to take place under UNCTAD auspices in September 2000.

Organization of work

3. In line with paragraph 114 of "A Partnership for Growth and Development" (TD/378/Rev.1), the session of the Intergovernmental Group of Experts on Competition Law and Policy will last three days. The first plenary meeting will open at 10 a.m. on Monday, 7 June 1999, and will be devoted to procedural matters (items 1 and 2 of the provisional agenda) and to introductory statements. The closing plenary meeting, on Wednesday, 9 June, will be devoted to the work programme (item 3 (ii)) and to the adoption of the report (item 4). [1]

4. This will leave the remaining meetings, from the afternoon of 7 June to the morning of 9 June inclusive, for consultations on competition law and

policy, including studies related to the provisions of the Set of Principles and Rules (item 3 (i) of the provisional agenda) and for preparations for the Fourth Review Conference item 3(ii)). If more time is needed, the adoption of the report could be postponed until late afternoon of 9 June, in order for an informal working session to take place that afternoon. A timetable will be available on the first day of the meeting.

Item 3 (i): Consultations on competition law and policy, including the Model Law and studies related to the provisions of the Set of Principles and Rules

5. In paragraph 7 (a) of the agreed conclusions adopted by the Intergovernmental Group of Experts on Competition Law and Policy on 31 July 1998 (TD/B/COM.2/13-TD/B/COM.2/CLP/5, annex I), the UNCTAD secretariat was requested to prepare for consideration by the Intergovernmental Group of Experts a report on the experiences gained so far with international cooperation on competition policy issues and the mechanisms used, taking into account commentary and information to be received from member States by 31 January 1999. Accordingly, the report prepared by the UNCTAD secretariat on this issue will be submitted for consideration by the experts (TD/B/COM.2/CLP/9). Under paragraph 7 (c) of the same agreed conclusions, the secretariat was requested to prepare a preliminary report on how competition policy addresses the exercise of intellectual property rights. This preliminary report is submitted to the Intergovernmental Group of Experts for consideration in document TD/B/COM.2/CLP/10

6. Further, under paragraph 8 of the same agreed conclusions, the experts requested the secretariat to continue to publish the following documents on a regular basis and to make them available on the Internet:

(i) Further issues of the Handbook on Competition Legislation, including regional and international instruments;

(ii) A revised version of the Commentary to the Model Law, taking into account new trends in merger control;

(iii) An updated version of the Directory of Competition Authorities; and

(iv) An information note relating to recent important competition cases, with special reference to competition cases involving more than one country, taking into account information to be received from member States.

7. A further issue of the Handbook containing the competition laws and related commentaries of Colombia, Japan and South Africa was published as document TD/B/COM.2/CLP/6, and an in-depth revision of the Model Law is in preparation and will be finalized in time for the Fourth Review Conference. An updated Directory was published in document TD/B/COM.2/CLP/7 and is available on UNCTAD's Web page (http://www.unctad.org/en/subsites/cpolicy/cpindex.htm). An information note, as requested in (iv) above, is to be made available in document TD/B/COM.2/CLP/11. Governments wishing to provide additional information on this topic can either transmit the information to the UNCTAD secretariat or make comments directly on the aforementioned UNCTAD Web page (under "Discussion Groups", "Discussion Group No.4").

8. Finally, under this item of the agenda, as recommended by the Intergovernmental Group of Experts, the consultations should focus on the following topics:

(a) The relationship between the competition authority and relevant regulatory agencies, especially in respect of the privatization and demonopolization processes;

(b) International merger controls, in particular where they have effects in developing countries; and

(c) The creation of a culture of competition.

9. Should countries wish to hold consultations on additional subjects, they are requested to inform the secretariat well in advance (no later than 30 April 1999) in order to enable all participants to prepare themselves for such consultations. Moreover, for each of the subjects referred to above, the secretariat would encourage experts from both developed and developing countries, as well as countries in transition, to make oral presentations supported by short written contributions during the consultations. Such contributions should be made available in advance to the UNCTAD secretariat either in written form or through the above-mentioned Web page ("Discussion Groups", "Discussion Groups Nos. 1-3").

Item 3 (ii): Work programme, including technical assistance, advisory and training programmes on competition law and policy and preparations for the Fourth United Nations Conference to Review All Aspects of the Set of Principles and Rules

10. Under this item, the Intergovernmental Group of Experts is expected to give guidance to the UNCTAD secretariat as to further work to be undertaken on competition law and policy, in particular in preparation for the Fourth Review Conference scheduled to take place in September 2000.

11. The experts will have before them an updated review of technical assistance, taking into account the information submitted by States and international organizations (TD/B/COM.2/CLP/12), as requested in paragraph 7

(b) of the Group's agreed conclusions from its first session (TD/B/COM.2/13) and a preliminary assessment of the operation of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices (TD/B/COM.2/CLP/13), as requested in paragraph 4 of the agreed conclusions.

12. On the basis of these two documents, the experts will be invited to give guidance to the secretariat on its preparations for the Fourth Review Conference. It is recalled that, after reviewing the application of the Set, the Conference may wish to consider proposals for improvement and further development of the Set. It is also recalled that UNCTAD X is to take place in February 2000.

Item 4: Provisional agenda for the Fourth Review Conference

13. The Intergovernmental Group of Experts, acting as preparatory meeting for the Fourth Review Conference, is expected to adopt the provisional agenda of the conference.

Item 5: Adoption of the report of the Intergovernmental Group of Experts

14. The Intergovernmental Group of Experts on Competition Law and Policy is required to report to the Commission on Investment, Technology and Related Financial Issues. [1]

Note

1/ In view of the short duration of the session, the Rapporteur would be authorized to complete the final report after the close of the session.